

PATENT COOPERATION TREATY

PCT

REC'D 10 FEB 2005

WIPO



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/12503	International filing date (day/month/year) 07.11.2003	Priority date (day/month/year) 10.12.2002
International Patent Classification (IPC) or both national classification and IPC A23D7/00		
Applicant UNILEVER N.V. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 23.04.2004	Date of completion of this report 09.02.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Georgopoulos, N Telephone No. +49 89 2399-2634 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/12503**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-16 as originally filed

Claims, Numbers

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12503

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	10
	No: Claims	1-9
Inventive step (IS)	Yes: Claims	
	No: Claims	1-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

see separate sheet

Item V

- 1 Reference is made to the following documents:
D1: HAAHR A M ET AL: "Flavour release of aldehydes and diacetyl in oil/water systems" FOOD CHEMISTRY 71 (3, COST ACTION 96: FOOD AND FLAVOUR) 355-362 2000 DEP.OF SEAFOOD RES., DANISH INST. FOR FISHERIES RES., TECH.UNIV.OF DENMARK, DK-2800 LYNGBY, DENMARK; XP002273824
D2: GB-A-1 504 027
D3: US-A-4 431 554
D4: WO-A-94 10 237
D5: DATABASE WPI Section Ch, Week 197817 Derwent Publications Ltd., London, GB; Class D13, AN 1978-30724A XP002273825 & JP-A-53 026803 (Abstract)
D6: DATABASE WPI Section Ch, Week 198104 Derwent Publications Ltd., London, GB; Class B04, AN 1981-04648D XP002273826 & JP-A-55 148056 (Abstract)
D7: PATENT ABSTRACTS OF JAPAN, JP-A-55 148055 (Abstract)
D8: DATABASE WPI Section Ch, Week 198404 Derwent Publications Ltd., London, GB; Class B04, AN 1984-021088 XP002273827 & JP-A-58 212752 (Abstract)
- 2 The present application (see page 8, lines 7-13 of the description) defines the "fat" in present independent claim 1 as being "selected from the group comprising palm oil, palm kernel oil, bean oil, rapeseed oil, coconut oil, sunflower oil and combinations thereof". Said description further discloses that the invention's fats "may be derived from vegetable or fish oil without further treatment".
Thus, any one of the aforementioned vegetable oils falls under the scope of the term "fat", as said term is used in present independent claim 1.
 - 2.1 Therefore, D1 anticipates the subject-matter of present claims 1-9 (see page 356, column 1, paragraph 3 - column 2, paragraph 2 of D1), as the o/w emulsion of said document comprises rapeseed oil.
 - 2.2 Equally, each one of the documents D2-D8 anticipates the subject-matter of present claims 1-9 (see page 1, lines 11-15; claims 1-3 of D2; column 1, lines 44-49; claims 1, 2, 5 and 7-9 of D3; page 3, lines 9-26; examples 1-3 and 11-17; claims 1, 3 and 11 of D4; D5; D6; D7; and D8).

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/12503

- 3 It does not appear that present dependent claim 10 contains the technical features which, when combined with the technical features of present independent claim 1, would establish novelty and / or inventive step (Art.33 (3) PCT) for the subject-matter of the latter: the monoglyceride content of an emulsifier (see present claim 10) is a matter of trivial design to the person skilled in the art and therefore not connected to any unexpected technical effect or advantage.
- 4 The subject-matter of present claims 1-10 is susceptible of industrial application in the field of the emulsion products industry (Art.33 (4) PCT).
- 5 The applicant's attention is also drawn to the following:
 - 5.1 Contrary to the requirements of Rule 5.1 (a) (ii) PCT, the relevant background art disclosed in the documents D1-D8 is not mentioned in the description, nor are these documents identified therein.
 - 5.2 The formulation "but are not limited to" (see page 9, lines 25-26 of the present description), should be deleted (Rule 9 (1) (iv) PCT).